

REMARKS

Applicants thank the Examiner for the courtesy extended to Applicants' attorney during the interview held June 1, 2006, in the above-identified application. During the interview, Applicants' attorney explained the presently-claimed invention and why it is patentable over the applied prior art, and discussed other issues raised in the Office Action. The discussion is summarized and expanded upon below.

The rejection of Claims 1 and 3-9 under 35 U.S.C. §103(a) as unpatentable over U.S. 6,646,023 (Nyssen), is respectfully traversed.

Nyssen relates to a method of coloring seed, seed-dressing materials, and seed-dressing material formulations with solid pigment preparations containing (a) at least one organic or inorganic pigment and (b) at least one compound selected from the group consisting of polyether polyols, reaction products of alkylene oxides with alkylatable compounds, or oxalkylated phenols (column 2, lines 41-52), wherein preferred components (b) are ethylene oxide adducts of optionally hydrogenated castor oil with 10 to 100 molar units, preferably 15 to 80 molar units, of ethylene oxide (column 4, lines 44-47). Each of Examples 1-4 of Nyssen employ such an ethylene oxide adduct of hydrogenated castor oil as component (b).

In a Declaration under 37 C.F.R. § 1.132 of named coinventor Hansulrich Reisacher filed February 15, 2006 (Reisacher Declaration), a pigment preparation containing a representative example of Nyssen's preferred ethylene oxide adduct of hydrogenated castor oil was compared to a pigment preparation containing a representative nonionic surface-active additive of component (B) herein, i.e., a block copolymer based on ethylenediamine/propylene oxide/ethylene oxide. The data in the Reisacher Declaration shows that in terms of storage stability of pigment preparations containing these components, the pigment of the present invention had little change in color equivalents (CE) under the test conditions (106 to

109), compared to pigment preparations containing Nyssen's preferred component (b) (150 to 350).

In the present Office Action, the Examiner finds that the above-discussed showing is not commensurate in scope with the claims, which are broader in terms of said component (B).

In reply, since Nyssen uses a castor oil-ethylene oxide adduct in all his examples, it must be assumed that Nyssen believes that best results are obtained with such an adduct, even though other materials are broadly contemplated. Clearly, one of ordinary skill in the art would not interpret Nyssen to suggest that other materials within their component (b) genus and not castor oil-ethylene oxide adducts might be better than such adducts.

The newly-submitted Supplemental Reisacher Declaration exemplifies pigment preparations using additional nonionic surface-active additives as component (B). As shown therein, for all of Examples 14-35, the increase in CE value after four days storage at 40°C never exceeded 6 units, which result can be contrasted with the above-discussed data for the castor oil-ethylene oxide adduct of Nyssen shown in the Reisacher Declaration. As Reisacher declared therein: "These results clearly demonstrate that the color strength of Pigment Preparation 1 according to [the present invention] . . . remains nearly unchanged during storage whereas the color strength of the Comparative Pigment Preparation 1C [according to Nyssen] radically decreases."

In addition, one skilled in the art would ascertain a trend in the comparative data of record to extend its probative value to the limits of the present claims. Compare *In re Kollman*, 595 F.2d 48, 56, 201 USPQ 193, 199 (CCPA 1979) (**copy enclosed**).

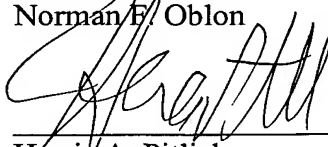
For all the above reasons, it is respectfully requested that the rejection be withdrawn.

The objection to Claim 3 is now moot in view of the above-discussed amendment. Accordingly, it is respectfully requested that the rejection be withdrawn.

Applicants respectfully submit that all of the presently-pending claims in this application are now in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Respectfully submitted,

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